REMARKS

This Amendment, filed in reply to the Office Action dated February 18, 2009, is believed to be fully responsive to each point of rejection raised therein. Accordingly, reconsideration and allowance are respectfully requested.

I. Summary of the Office Action

Claims 1-4, 6-8 and 10-34 are pending in the application.

Claims 20-34 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

Claims 1-4, 6-8, and 10-34 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

Claims 1-4, 6, 10-14, and 16 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application No. 2003/0161325 to Kekki.

Claims 7 and 8 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kekki, in view of U.S. Patent Application No. 2005/0210154 to Verma *et al.* ("Verma").

Claims 20-22 and 31-34 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,374,112 to Widegren *et al.* ("Widegren"), in view of Kekki.

Claims 23-30 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Application No. 2002/0082020 to Lee *et al.* ("Lee"), in view of U.S. Patent No. 6,889,050 to Willars *et al.* ("Willars").

Claims 15 and 17-19 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph, set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.

II. Rejections Under 35 U.S.C. § 112, first paragraph

The Examiner indicates that claims 20-34 fail to comply with the written description requirement because they allegedly contain subject matter which was not described in the specification (Office Action at page 2). In particular, the specification allegedly does not describe any structure that corresponds to the claimed means (Office Action at page 2). For the following reasons, Applicant respectfully submits that claims 20-34 are patent-eligible under 35 U.S.C. § 112, first paragraph.

Exemplary embodiments of the present invention relate to mobile radio systems of the Universal Mobile Telecommunication Systems (UMTS) type (specification at page 1, ll. 3-8). The standards applicable to UMTS were known in the art at the time of the invention. Such standards define interactions between network elements of a UMTS system.

Applicant respectfully submits that the disclosure of the present invention sufficiently conveys to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. In particular, Applicant respectfully submits that the structure of the claimed means is inherent in the disclosure, in that such structure is similar to the structure of elements known in the art at the time of the invention. In the present invention, however, those means are being adapted to perform new and non-obvious functions, and thus, the claimed means are patentable over the cited art of record.

For example, with respect to claim 20, the claim is directed to a CNRC comprising control means for controlling a Node B and data signalling means for signalling to the Node B.

CNRC and Node B elements are part of the UMTS specification and well known in the art. It is also known that a CNRC controls a Node B element (and thus, includes controlling means), and is also signal to the Node B instructions in order to control the Node B (and thus, includes signalling mean).

Applicant respectfully submits that the new and non-obvious elements of the claim relate to the signalling from the CRNC control means to the Node B "at least one parameter representing the quality of service for the transport network layer, for uplink transmission over the Iub interface between the radio network controller CRNC and the Node B," as recited in claim 20. The above-quoted new and non-obvious functionality is performed by known means. Therefore, the claim conveys to a person of ordinary skill in the art that the inventor had possession of the invention at the filing of the application.

For the reasons above, Applicant respectfully requests the Examiner to withdraw the rejection of claims 20-34 under 35 U.S.C. § 112, first paragraph.

III. Rejections Under 35 U.S.C. § 112, second paragraph

The Examiner indicates that claims 1-4, 6-8, and 10-34 are indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention (Office Action at pages 2 and 3). By this Amendment, Applicant amends claim 1 and adds new claims 35 and 36. For the following reasons, Applicant respectfully submits that claims 1-4, 6-8, and 10-34 are patent eligible under 35 U.S.C. § 112, second paragraph.

With respect to claims 1-4, 6-8, and 10-19, the Examiner indicates that it is not clear if the "a second network element" on line 6 of claim 1 is the same or a different element from the "a second network element" on line 8 of claim 1 (Office Action at page 3). By this Amendment, Applicant amends "a second network element" on line 8 to recite "the second network element."

Accordingly, Applicant respectfully submits that the instances referred to by the Examiner refer to the same "second network element."

Furthermore, the Examiner indicates that the use of the phrase "and/or" on line 13 of claim 1 renders the claim indefinite (Office Action at page 3). By this Amendment, Applicant amends claim 1 and adds new claims 35 and 36 to describe elements of the invention with more particularity. In particular, Applicant deletes the phrase "and/or" from the claims.

Furthermore, the Examiner indicates that it is unclear what steps are being performed because the claims are allegedly narrative in nature. By this Amendment, Applicant amends claim 1 to describe the method being performed with more particularity. In particular, Applicant respectfully submits that the method comprises: "sending … at least one parameter representative of transport quality of service or of quality of service for the transport network layer, [and] managing … the transport quality of service according to said at least one parameter," as recited in claim 1.

For these reasons, Applicant respectfully requests the Examiner to withdraw the rejection of For the reasons above, Applicant respectfully requests the Examiner to withdraw the rejection of claims 1-4, 6-8, and 10-34 under 35 U.S.C. § 112, second paragraph.

IV. Response To Examiner's Arguments

In response to Applicant's argument traversing the rejection of **claim 1**, the Examiner indicates that Applicant's argument with respect to Kekki not disclosing or suggesting the management of frames in the uplink direction is not persuasive because the claims do not require that the management be done in the uplink direction (Office Action at page 7). By this Amendment, Applicant amends claim 1. For the following reasons, Applicant respectfully submits that claim 1 is patentable over Kekki.

With respect to **claim 1**, Applicant respectfully submits that Kekki does not disclose or suggest, at least "managing, by the second network element, the transport quality of service according to said at least one parameter for transport quality of service management for **uplink** transmission over an Iub interface between a controlling radio network controller and a Node B," as recited in claim 1 (emphasis added).

In particular, claim 1 is directed to management in the uplink direction. As the Applicant noted in the RCE, which is the subject of this Office Action, the portions cited by the Examiner to reject claim 1 (see Office Action at pages 3 and 4) simply describe particular details of Kekki's queuing scheme, in which protocol frames are differentiated based on a QoS parameter and placed in corresponding queues, and a scheduler sends the frames in a downlink direction in accordance with their assigned queues (*see* Kekki at ¶¶ [0029]-[0036]). However, Kekki does not disclose or even suggest management of frames in the uplink direction, as recited in claim 1, much less, in the uplink direction "over an Iub interface between a controlling radio network controller and a Node B," as recited in claim 1.

At least for these reasons, Applicant respectfully submits that claim 1 is patentable over Kekki. With respect to **claims 2-4, 6, 10-14, and 16**, Applicant respectfully submits that these claims are patentable, at least by virtue of their dependency on claim 1, but also for their additionally recited elements.

In response to Applicant's argument traversing the rejection of **claim 20**, the Examiner states that the argument with respect to Widegren's access plane not corresponding to a radio network layer is not persuasive because Widegren's access place is used for performing functions related to radio access (Office Action at page 7). The Examiner further states that the argument with respect to Widegren's non-access plane not corresponding to a transport layer is

not persuasive since the Applicant acknowledges that the transport layer of Widegren is based on ATM (Office Action at page 8). Finally, the Examiner

Applicant notes that the Examiner has seized on particular portions of the Applicant's response, but has not addressed Applicant's main argument, namely, that Widegren does not disclose or suggest: "signalling to the Node B in accordance with a signalling protocol of a radio network layer corresponding to the NBAP protocol applicable to the Iub interface between the radio network controller CRNC and Node B at least one parameter representing the quality of service for the transport network layer, for uplink transmission over the Iub interface between the radio network controller CRNC and the Node B," are recited in claim 20.

Specifically, Applicant submits that Widegren (and specifically, the portion cited by the Examiner) does not disclose quality of service related to a transport network layer (and managing such quality of service), but discloses quality of service related only to a radio network layer. Therefore, Widegren does not disclose or suggest: "signalling to the Node B … at least one parameter representing the quality of service for the transport network layer, for uplink transmission over the Iub interface between the radio network controller CRNC and the Node B", as recited in claim 20.

V. Allowable Subject Matter

Claims 15 and 17-19 contain allowable matter and would be allowed if rewritten in independent form. Applicant respectfully requests the Examiner to hold in abeyance any such rewriting of the claims until the Examiner has had a chance to reconsider and withdraw the rejection of the remaining claims.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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